

Edgar Filing: Emergent BioSolutions Inc. - Form 10-K/A

Emergent BioSolutions Inc.  
Form 10-K/A  
March 09, 2015

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-K/A  
(Amendment No. 1)

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2014

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to

Commission file number: 001-33137

EMERGENT BIOSOLUTIONS INC.  
(Exact Name of Registrant as Specified in Its Charter)

Delaware 14-1902018  
(State or Other Jurisdiction of Incorporation or Organization) (IRS Employer Identification No.)

400 Professional Drive, Gaithersburg , Maryland 20879  
(Address of Principal Executive Offices) (Zip Code)

Registrant's Telephone Number, Including Area Code: (240) 631-3200  
Securities registered pursuant to Section 12(b) of the Act:

| Title of Each Class   | Name of Each Exchange on Which Registered |
|---|---|
| Common stock, \$0.001 par value per share                     | New York Stock Exchange                   |
| Series A junior participating preferred stock purchase rights | New York Stock Exchange                   |

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of Securities Act.  
Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).  
Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company.

See definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  
Yes  No

The aggregate market value of voting and non-voting common equity held by non-affiliates of the registrant as of June 30, 2014 was approximately \$659 million based on the price at which the registrant's common stock was last sold on that date as reported on the New York Stock Exchange.

As of February 27, 2015, the registrant had 37,918,377 shares of common stock outstanding.

#### DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement for its 2015 annual meeting of stockholders scheduled to be held on May 21, 2015, which is expected to be filed with the Securities and Exchange Commission not later than 120 days after the end of the registrant's fiscal year ended December 31, 2014, are incorporated by reference into Part III of the registrant's annual report on Form 10-K for the year ended December 31, 2014, as amended by this Amendment No. 1 (the "Annual Report"). With the exception of the portions of the registrant's definitive proxy statement for its 2015 annual meeting of stockholders that are expressly incorporated by reference into the Annual Report, such proxy statement shall not be deemed filed as part of the Annual Report.

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Explanatory Note

Emergent BioSolutions Inc. (the "Company") is filing this Amendment No. 1 on Form 10-K/A (this "Amendment No. 1") to its Annual Report on Form 10-K for the year ended December 31, 2014, as originally filed by the Company with the SEC on March 6, 2015 (the "Original Annual Report"), to (a) file the eXtensible Business Reporting Language ("XBRL") information required to be filed as Exhibit 101, which was inadvertently omitted from the Original Annual Report, (b) file additional certifications in accordance with Rule 13a-14(a) of the Securities Exchange Act of 1934, as amended, and (c) amend and restate the Exhibit Index to the Original Annual Report to reflect the filing of the foregoing exhibits. This Amendment No. 1 does not change the previously reported financial statements or, except as expressly described in the prior sentence, any of the other disclosure contained in the Original Annual Report.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Amendment No. 1 to be signed on its behalf by the undersigned, thereunto duly authorized.

EMERGENT BIOSOLUTIONS INC.

By: /s/ DANIEL J. ABDUN-NABI  
Daniel J. Abdun-Nabi  
President and Chief Executive Officer  
(Principal Executive Officer)

Date: March 9, 2015

By: /s/ ROBERT G. KRAMER  
Robert G. Kramer  
Chief Financial Officer and Treasurer  
(Principal Financial and Accounting Officer)

Date: March 9, 2015

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EXHIBIT INDEX

Exhibit

| Number | Description   |
|--------|---|
| 2      | Arrangement Agreement dated as of December 11, 2013, among the Company, 2396638 Ontario Inc. and Cangene Corporation (incorporated by reference to Exhibit 2 to the Company's Current Report on Form 8-K filed on December 12, 2013).   |
| 3.1    | Restated Certificate of Incorporation of the Company (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-8 filed on December 8, 2006) (Registration No. 333-139190).  |
| 3.2    | Amended and Restated By-laws of the Company (incorporated by reference to Exhibit 3 to the Company's Current Report on Form 8-K filed on August 16, 2012).  |
| 4.1    | Specimen Common Stock Certificate (incorporated by reference to Exhibit 4.1 to Amendment No. 3 to the Company's Registration Statement on Form S-1 filed on October 20, 2006) (Registration No. 333-136622).  |
| 4.2    | Rights Agreement, dated as of November 14, 2006, between the Company and American Stock Transfer & Trust Company (incorporated by reference to Exhibit 4.3 to the Company's Registration Statement on Form S-8 filed on December 8, 2006) (Registration No. 333-139190).  |
| 4.3    | Registration Rights Agreement, dated as of September 22, 2006, among the Company and the stockholders listed on Schedule 1 thereto (incorporated by reference to Exhibit 4.3 to Amendment No. 1 to the Company's Registration Statement on Form S-1 filed on September 25, 2006) (Registration No. 333-136622).   |
| 4.4    | Indenture, dated as of January 29, 2014, between the Company and Wells Fargo Bank, National Association, including the form of 2.875% Convertible Senior Notes due 2021 (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on January 29, 2014).   |
| 9.1    | Voting and Right of First Refusal Agreement, dated as of October 21, 2005, between the William J. Crowe, Jr. Revocable Living Trust and Fuad El-Hibri (incorporated by reference to Exhibit 9.1 to the Company's Registration Statement on Form S-1 filed on August 14, 2006) (Registration No. 333-136622).  |
| 10.1   | Credit Agreement, dated as of December 11, 2013, among the Company, as borrower, certain of its subsidiaries party thereto, as guarantors, Bank of America, N.A., as administrative agent, and certain financial institutions party thereto as lenders (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on December 12, 2013).                |
| 10.2   | First Amendment to Credit Agreement, dated as of January 17, 2014, among the Company, as borrower, certain of its subsidiaries party thereto, as guarantors, Bank of America, N.A., as administrative agent, and certain financial institutions party thereto as lenders (incorporated by reference to Exhibit 10.2 to the Company's Annual Report on Form 10-K filed on March 10, 2014). |
| 10.3   | Second Amendment to Credit Agreement, dated as of March 21, 2014, among the Company, as borrower, certain of its subsidiaries party thereto, as guarantors, Bank of America, N.A., as administrative agent, and certain financial institutions party thereto as lenders (incorporated by reference to Exhibit 10 to the Company's Quarterly Report on Form 10-Q filed on May 12, 2014).   |
| 10.3   | * Emergent BioSolutions Inc. Employee Stock Option Plan, as amended and restated on January 26, 2005 (incorporated by reference to Exhibit 10.1 to the Company's Registration Statement on Form S-1 filed on August 14, 2006) (Registration No. 333-136622).  |
| 10.4   | * Emergent BioSolutions Inc. 2006 Stock Incentive Plan (incorporated by reference to Exhibit 10.3 to Amendment No. 5 to the Company's Registration Statement on Form S-1 filed on October 30, 2006) (Registration No. 001-33137).   |
| 10.5   | * Amended and Restated Emergent BioSolutions Inc. 2006 Stock Incentive Plan (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed on August 7, 2009).   |
| 10.6   | * Second Amended and Restated Emergent BioSolutions Inc. 2006 Stock Incentive Plan (incorporated by reference to Appendix A to the Company's definitive proxy statement on Schedule 14A filed on April 6, 2012).  |

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- 10.7 \* Third Amended and Restated Emergent BioSolutions Inc. 2006 Stock Incentive Plan (incorporated by reference to Appendix A to the Company's definitive proxy statement on Schedule 14A filed on April 7, 2014).
- 10.7 \* Form of Director Nonstatutory Stock Option Agreement (incorporated by reference to Exhibit 10.5 to the Company's Annual Report on Form 10-K filed on March 8, 2013).
- 10.8 \* Form of Director Restricted Stock Unit Agreement (incorporated by reference to Exhibit 10.6 to the Company's Annual Report on Form 10-K filed on March 8, 2013).
- 10.9 \* Form of Non-Qualified Stock Option Agreement (incorporated by reference to Exhibit 10.7 to the Company's Annual Report on Form 10-K filed on March 8, 2013).
- 10.10 \* Form of Restricted Stock Unit Agreement (incorporated by reference to Exhibit 10.8 to the Company's Annual Report on Form 10-K filed on March 8, 2013).
- 10.11 \* Form of Indemnity Agreement for directors and senior officers (incorporated by reference to Exhibit 10 to the Company's Current Report on Form 8-K filed on January 18, 2013).
- 10.12 \* Director Compensation Program (incorporated by reference to Exhibit 10.10 to the Company's Annual Report on Form 10-K filed on March 8, 2013).
- 10.14 \* Annual Bonus Plan for Executive Officers (incorporated by reference to Exhibit 10.7 to the Company's Annual Report on Form 10-K filed on March 5, 2010).
- 10.15 \* Amended and Restated Senior Management Severance Plan (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on December 22, 2011).
- 10.16 Amended and Restated Marketing Agreement, dated as of November 5, 2008, between Emergent Biodefense Operations Lansing LLC (formerly known as Emergent Biodefense Operations Lansing Inc.) and Intergen N.V. (incorporated by reference to Exhibit 10.27 to the Company's Annual Report on Form 10-K filed on March 6, 2009).
- 10.17 † Solicitation, Offer and Award (the "CDC BioThrax Procurement Contract"), effective September 30, 2011, from the Centers for Disease Control and Prevention to Emergent Biodefense Operations Lansing LLC (incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q filed on May 4, 2012).
- 10.18 † Modification No. 1 to the CDC BioThrax Procurement Contract, effective March 21, 2012, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q filed on November 1, 2012).
- 10.19 † Modification No. 2 to the CDC BioThrax Procurement Contract, effective September 1, 2012, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q filed on November 1, 2012).
- 10.2 † Modification No. 3 to the CDC BioThrax Procurement Contract, effective April 5, 2013, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed on August 6, 2013).
- 10.21 † Modification No. 4 to the CDC BioThrax Procurement Contract, effective June 1, 2013, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q filed on August 6, 2013).
- 10.22 † Modification No. 5 to the CDC BioThrax Procurement Contract, effective June 1, 2013, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q filed on August 6, 2013).
- 10.23 † Modification No. 6 to the CDC BioThrax Procurement Contract, effective June 1, 2013, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q filed on August 6, 2013).

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- 10.24 † Modification No. 7 to the CDC BioThrax Procurement Contract, effective September 26, 2013, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed on November 8, 2013).
- 10.25 † Modification No. 8 to the CDC BioThrax Procurement Contract, effective September 30, 2013, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q filed on November 8, 2013).
- 10.26 † Modification No. 9 to the CDC BioThrax Procurement Contract, effective January 13, 2014, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.26 to the Company's Annual Report on Form 10-K filed on March 10, 2014).
- 10.27 † Modification No. 10 to the CDC BioThrax Procurement Contract, effective January 22, 2014, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10.27 to the Company's Annual Report on Form 10-K filed on March 10, 2014).
- 10.27 † Modification No. 11 to the CDC BioThrax Procurement Contract, effective September 18, 2014, between Emergent Biodefense Operations Lansing LLC and the Centers for Disease Control and Prevention (incorporated by reference to Exhibit 10 to the Company's Quarterly Report on Form 10-Q/A filed on January 23, 2015).
- 12 Ratio of Earnings to Fixed Charges (incorporated by reference to Exhibit 12 to the Original Annual Report).
- 21 Subsidiaries of the Company (incorporated by reference to Exhibit 21 to the Original Annual Report).
- 23 Consent of Independent Registered Public Accounting Firm (incorporated by reference to Exhibit 23 to the Original Annual Report).
- 31.1 Certification of the Chief Executive Officer pursuant to Exchange Act Rule 13a-14(a) (incorporated by reference to Exhibit 31.1 to the Original Annual Report).
- 31.2 Certification of the Chief Financial Officer pursuant to Exchange Act Rule 13a-14(a) (incorporated by reference to Exhibit 31.2 to the Original Annual Report).
- 31.3 # Certification of the Chief Executive Officer pursuant to Exchange Act Rule 13a-14(a).
- 31.4 # Certification of the Chief Financial Officer pursuant to Exchange Act Rule 13a-14(a).
- 32.1 Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (incorporated by reference to Exhibit 32.1 to the Original Annual Report).
- 32.2 Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (incorporated by reference to Exhibit 32.2 to the Original Annual Report).
- 101.INS #XBRL Instance Document
- 101.SCH #XBRL Taxonomy Extension Schema Document
- 101.CAL #XBRL Taxonomy Calculation Linkbase Document
- 101.DEF #XBRL Taxonomy Definition Linkbase Document
- 101.LAB #XBRL Taxonomy Label Linkbase Document
- 101.PRE #XBRL Taxonomy Presentation Linkbase Document
- # Filed herewith
- † Confidential treatment granted by the Securities and Exchange Commission as to certain portions.
- † Confidential materials omitted and filed separately with the Securities and Exchange Commission.
- †† Confidential treatment requested by the Securities and Exchange Commission as to certain portions.
- †† Confidential materials omitted and filed separately with the Securities and Exchange Commission.
- \* Management contract or compensatory plan or arrangement filed herewith in response to Item 15(a) of Form 10-K.

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Attached as Exhibit 101 to this Amendment No. 1 are the following formatted in XBRL: (i) Consolidated Balance Sheets as of December 31, 2014 and 2013, (ii) Consolidated Statements of Operations for the Years Ended December 31, 2014, 2013 and 2012, (iii) Consolidated Statements of Comprehensive Income for the Years Ended December 31, 2014, 2013 and 2012 (iv) Consolidated Statements of Cash Flows for the Years Ended December 31, 2014, 2013 and 2012, (v) Consolidated Statements of Changes in Stockholders' Equity for the Years ended December 31, 2014, 2013 and 2012, and (vi) Notes to Consolidated Financial Statements.